

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER ALAN COBB,
Plaintiff,
v.
OFFICE OF ASSESSOR, COUN-
ALAMEDA,
Defendant.

Case No.: C12-2569 JSC

**ORDER DISMISSING COMPLAINT
WITHOUT PREJUDICE AND
GRANTING PLAINTIFF'S
APPLICATION TO PROCEED *IN
FORMA PAUPERIS* AND MOTION TO
FILE AN AMENDED COMPLAINT
(Dkt. Nos. 3, 8)**

Plaintiff, proceeding pro se, filed this real estate action against the Office of Assessor in Alameda County¹ and a Motion to Submit an Amended Complaint, which is GRANTED. (Dkt. Nos. 1, 8.) He also filed an application to proceed *in forma pauperis*, which is also GRANTED. (Dkt. No. 3.) Under 28 U.S.C. §1915, the Court has a continuing duty to dismiss any case in which a party seeks leave to proceed *in forma pauperis* if the Court determines that the action (1) is frivolous or malicious; (2) fails to state a claim on which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

¹ Pursuant to 28 U.S.C. § 636(c), Plaintiff consented to the jurisdiction of a United States magistrate judge (Dkt. No. 6), and Defendant, not yet served, is not a party to this case. See Third World Media, LLC v. Does 1-1568, 2011 WL 4344160 at *3 (N.D. Cal. Sept. 15, 2011).

1 Plaintiff filed this action on May 18, 2012. (Dkt. No. 1.) This action names the same
2 Defendant and appears to concern the same Oakland land parcel located on Grizzly Peak
3 Boulevard as a prior case filed by Plaintiff and dismissed without prejudice on April 25, 2012,
4 see Case No. 12-1045 (SI)(Dkt. No. 14); indeed, this complaint lists Case No. 12-1045 as a
5 related case. It is not clear whether Plaintiff asserts the same claims as the previous case since
6 his two-page amended complaint cryptically alleges “real wrong by defendant,” “Legal injury
7 by defendant,” “Tort Action,” “Trading Partnership,” “Lawful Man,” “Free Will,” “Private
8 Citizen,” and “the Flag of Morocco,” among others without further description. (Dkt. No. 8 at
9 2.) Though Plaintiff clearly intends to claim a right to 4975 Grizzly Peak Boulevard, he does
10 not provide any allegations about how the Defendant’s conduct caused any of his purported
11 injuries. In Case No. 12-1045, Plaintiff’s complaint was dismissed for failure to state a claim
12 with leave to amend and then for failure to prosecute when Plaintiff failed to amend the
13 complaint. Case No. 12-1045 (SI) (Dkt. Nos. 11, 14.)

DISCUSSION

15 A complaint fails to state a claim upon which relief may be granted if Plaintiff does not
16 allege the “grounds” of his “entitlement to relief.” Bell Atlantic Corp. v. Twombly, 550 U.S.
17 544, 555 (2007) (quotation omitted). Essentially, a plaintiff must plead “factual content that
18 allows the court to draw the reasonable inference that the defendant is liable for the
19 misconduct alleged.” Ashcroft v. Iqbal, 129 S.Ct. 1937, 1949 (2009). Here, Plaintiff fails to
20 state a claim since he cites no specific misconduct by Defendant but only vaguely avers a
21 number of claims and requests \$9.5 million in damages. Plaintiff also requests relief from
22 “Deputy Ana Means,” who is not a party in this case. (Dkt. No. 8 at 2.) Plaintiff does not
23 clearly state the facts giving rise to this action, including any disputed conduct by Defendant,
24 when it occurred, and what specific injury, if any, Plaintiff suffered as a result.

25 Instead, Plaintiff attaches “exhibits”² without an explanation of their relationship to his
26 claim: a “Grant Deed” and a “Change in Ownership Statement” for decedent Christopher Alan

27 ² Though Plaintiff does not file any exhibits with his amended complaint (Dkt. No. 8), he
28 references the same exhibits filed with his original complaint, see Dkt. No. 2, and the Court
therefore considers these exhibits in conjunction with his amended complaint.

1 Cobb who, according to the document, died in 1967. The relationship, if any, between the
2 deceased Christopher Alan Cobb and the Plaintiff Christopher Alan Cobb is not disclosed.
3 The “Grant Deed,” dated May 6, 2005, transfers ownership of the Grizzly Peak property from
4 Trustee Barbro L. Cassman to Lalit M. Kapoor and Satindra Kapoor. (Dkt. No. 2 at 2.) The
5 name Christopher Alan Cobb is not mentioned anywhere in the document. The “Change in
6 Ownership Statement” is signed by Christopher Alan Cobb, and dated May 16, 2012. The
7 Trustee is listed as Barbro L. Cassman, and beneficiaries are listed as Christopher Alan Cobb
8 (100%), Lalit M. Kapoor (100%) and Satindra Kapoor (Joint), all of whom are purportedly
9 related to the decedent by “Fiction of Law.” (Dkt. No. 2 at 5-6.) It appears that Plaintiff
10 himself filled out this form and filed it with Defendant, alleging that the deceased Christopher
11 Alan Cobb owned the property in question.³

12 Nearly identical documents were among the exhibits filed in Case No. 12-1045;
13 however, additional documentation valuing the property at \$9.5 million was attached, and the
14 “Change in Ownership Statement” was dated February 17, 2012 and did not list any
15 beneficiaries. See Case No. 12-1045 (SI)(Dkt. No. 7.) Plaintiff’s addition of beneficiaries to
16 the May 16, 2012 version seems to reflect a belief that the Christopher Alan Cobb who died in
17 1967 named as his beneficiaries both Plaintiff and the couple who would eventually purchase
18 the disputed property nearly forty years later in 2005. Plaintiff does not provide any
19 documentation that the deceased Christopher Alan Cobb ever owned property on Grizzly Peak
20 Boulevard. Plaintiff’s demand for \$9.5 million in damages in this case apparently relates to
21 the \$9.5 million property value estimation provided in Case No. 12-1045, though Plaintiff
22 does not justify his damage request in the instant action.

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25 ³ Plaintiff notes the property address as 4785 Grizzly Peak Boulevard in the “Change in
26 Ownership Statement” dated May 16, 2012. The address is listed as 4975 Grizzly Peak
27 Boulevard in the “Change in Ownership Statement” dated February 17, 2012 and filed by
28 Plaintiff in Case No. 12-1045. It is unclear whether this discrepancy is a typographical error
by Plaintiff or reflects his intention to allege an interest in a different parcel of Grizzly Peak
Boulevard property, though Plaintiff’s amended complaint also references 4975 Grizzly Peak
Boulevard. (Dkt. No. 8.)

CONCLUSION

Plaintiff's amended complaint fails to state a claim and is DISMISSED. Since Case No. 12-1045 was dismissed without prejudice, the Court will afford Plaintiff one final opportunity to amend his pleading to specifically allege 1) the Defendant's purportedly illegal conduct; 2) the statute or law this conduct violates; 3) the basis for federal jurisdiction over this action; 4) the injury Plaintiff suffered as a result of Defendant's conduct; and 5) the relief Plaintiff seeks as a result. Any amended complaint should be submitted on or before July 6, 2012. Plaintiff is cautioned that failure to submit a timely second amended complaint that cures the above defects will result in dismissal of his claim with prejudice.

IT IS SO ORDERED.

Dated: June 11, 2012

Jacqueline S. Corley
JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE